



# Public Notice

U.S. Army Corps  
of Engineers  
Pittsburgh District

In Reply Refer to  
Notice No. below

US Army Corps of Engineers, Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

Application No. 200102060

Date: December 8, 2004

Notice No. 04 - 57

Closing Date: January 10, 2005

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: J. F. Allen Company  
P. O. Box 1602  
Elkins, WV 26241
3. LOCATION: in an unnamed tributary to the Shavers Fork, near Elkins, Randolph County, West Virginia
4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to initiate a new limestone quarry (Pond Lick Mountain Quarry) and subsequent deep mine operation. The first stage of the project in order to establish the quarrying operation will be to remove overburden and construct an access roadway, sedimentation pond, topsoil storage area, and a level equipment support area (approx. 62 Acres). This will be followed by a conventional limestone (Greenbrier Formation) removal/blasting area (128 Acres). Ultimately, after the limestone product has been removed to a predetermined highwall location, the limestone quarrying will proceed underground for the remainder of the project. Project impacts resulting from this proposed mining will cause the filling of approximately 2,150 lineal feet of a perennial to intermittent to ephemeral stream at the end of Corps jurisdiction. The total valley fill area proposed will be 21.4 acres from a total contributing drainage area of approximately 89 acres. Mitigation for stream impacts will follow the Stream Restoration Plan & Mitigation Plan as per Water Quality State 401 Certification. Drawings of the proposed project are attached to this notice.
5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also

consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection  
Division of Water & Waste Management  
ATTN: Regulatory Review Program  
1560 Kanawha Blvd. E.  
Charleston, West Virginia 25311  
Telephone: 304-558-6649

Re: Public Notice CELRP-OR-F No. 04-57

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended). The existence of the endangered Running Buffalo Clover has been found to be abundant in the general area and is occurring naturally along logging roads and other disturbances in the area. The applicant (J.F. Allen Co.) plans to designate areas outside of the permit area will be protected and where possible, existing logging roads will be utilized for transplanting. Transplanting(s) will be performed under the supervision and coordination of the West Virginia Department of Natural Resources. Further, the J.F. Allen Company will provide the U.S. Fish and Wildlife Service with a Special Management Agreement regarding the Running Buffalo Clover developed in conjunction with the USDA - Forest Service with the goal of developing a management system which will monitor and promulgate the continued existence of the specie, while assuring that the landowner's use of the property is also protected.

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

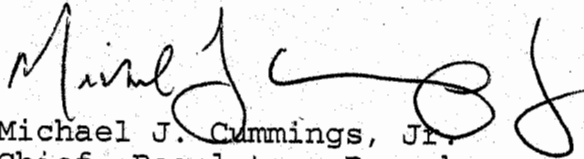
9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, State, and Local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, ATTN: Fred E.

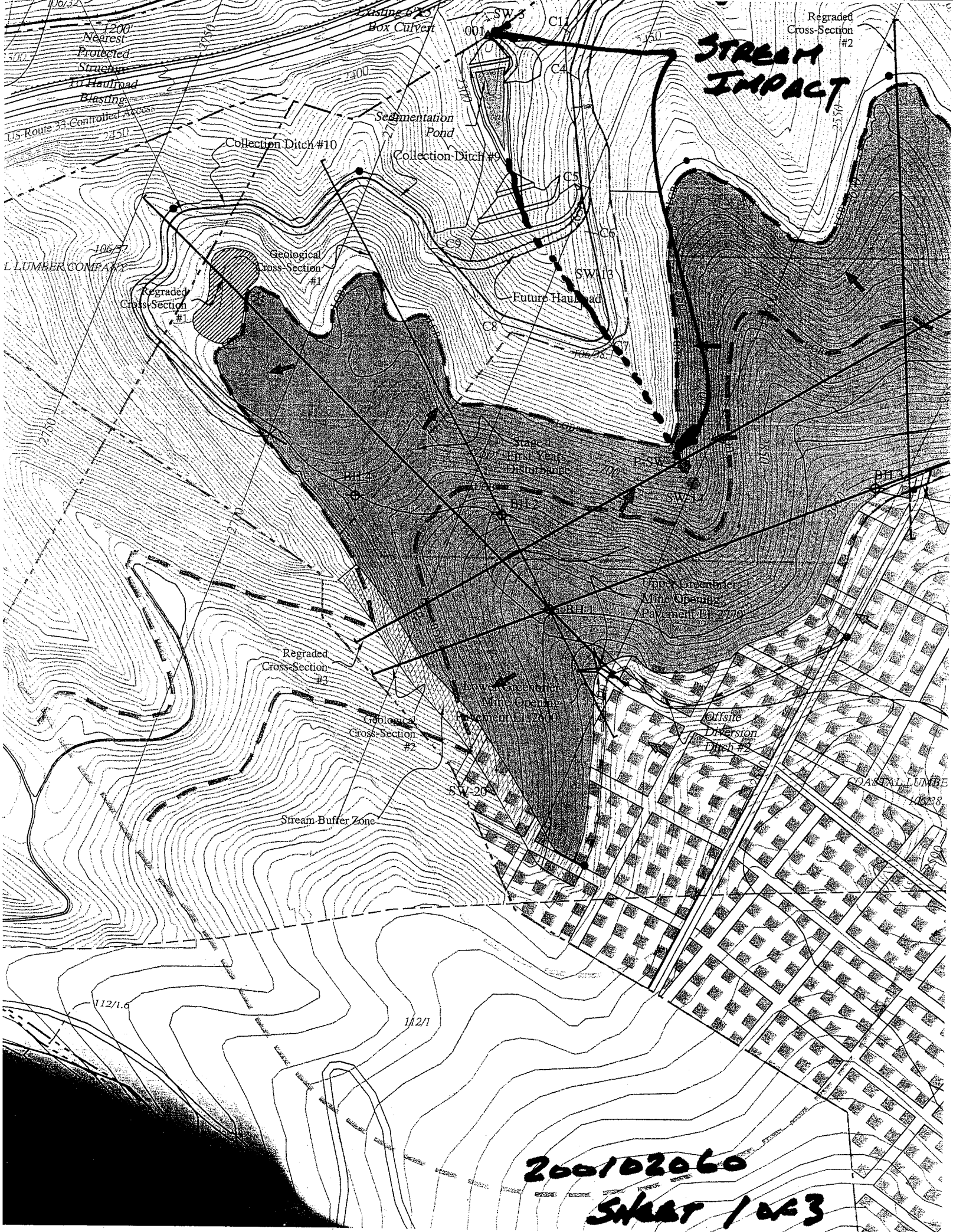
CELRP-OP-F  
Public Notice No. 04-57

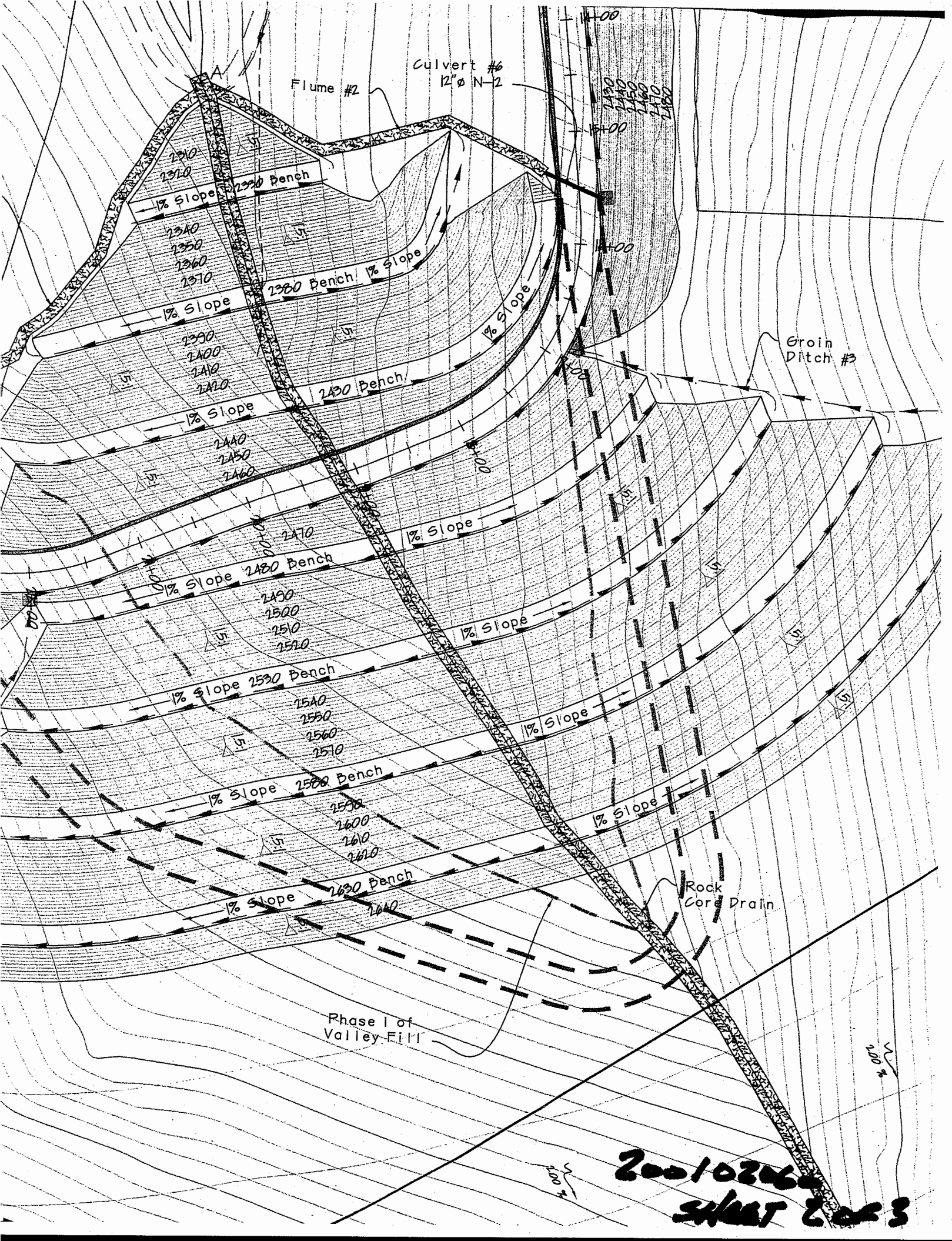
Pozzuto, Chief, Permit Enforcement and Surveillance Section at the above address, by telephoning (412) 395-7275, or by e-mail at fred.pozzuto@usace.army.mil. Please refer to CELRP-OR-F 200102060, Public Notice No. 04-57 in all responses.

FOR THE DISTRICT ENGINEER:



Michael J. Cummings, Jr.  
Chief, Regulatory Branch



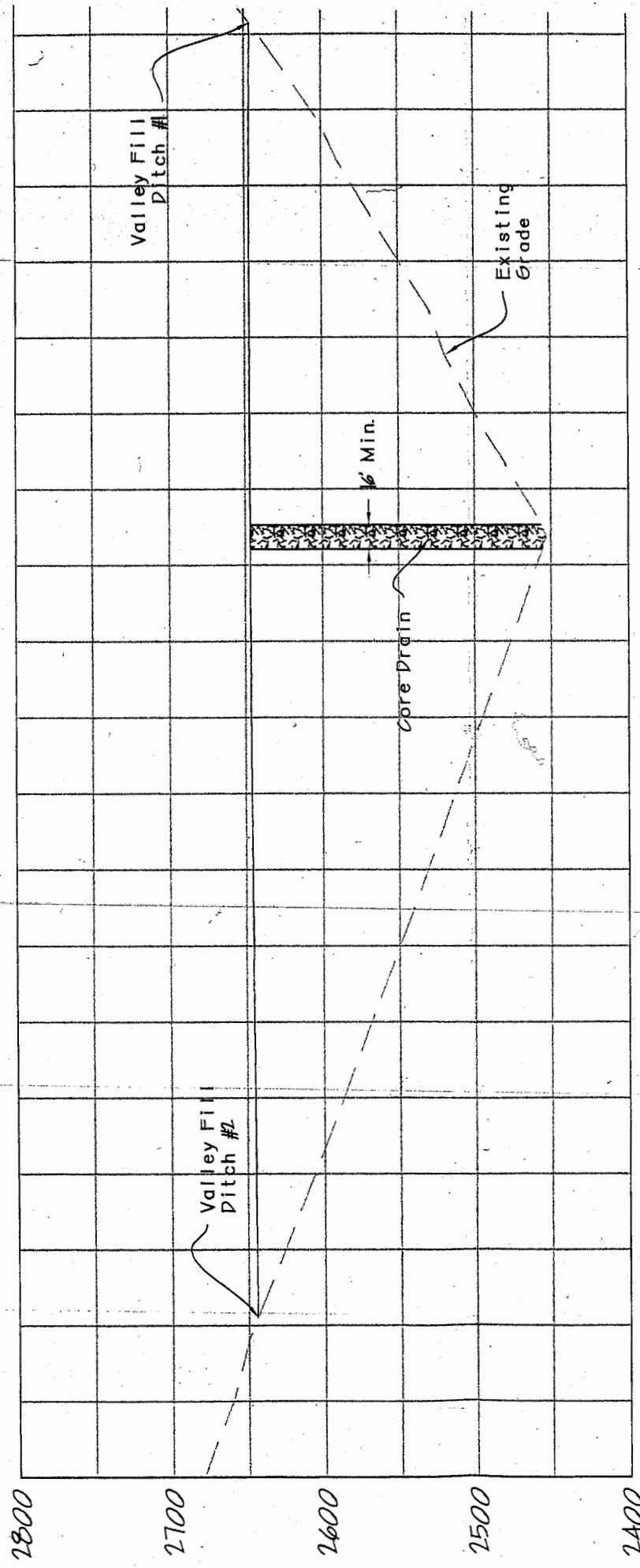


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Sheet 2 of 3

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